

REMARKS

This response is being filed responsive to the Office Action mailed September 18, 2006. In that Office Action, claims 1-14 were rejected as being obvious under 35 U.S.C. §103(a). Claims 1, 5, 6, and 10 have been amended and claims 15-19 have been added. Accordingly, claims 1-19 are pending in the application.

Claim Rejections

Claims 1, 3, 5, and 7 stand rejected under 35 U.S.C. §103(a) as unpatentable over Hellaker (US 2002/0197988 A1) in view of Kobayashi et al. (2005/0014487 A1). Claims 2, 4, 6, 7, and 12 stand rejected under 35 U.S.C. §103(a) as unpatentable over Hellaker and Kobayashi in view of Fuchs et al. (US 6,970,703). Claims 8-14 stand rejected under 35 U.S.C. §103(a) as unpatentable over Hellaker, Kobayashi, and Fuchs in further view of Marko et al. (US 6,993,316). Claims 10 and 11 stand rejected under 35 U.S.C. §103(a) as unpatentable over Hellaker, Kobayashi, Fuchs, and Marko in further view of Roach, Jr. (US 6,044,265). The rejections are respectfully traversed for the reasons discussed below.

Claims 1-4 and 8-12

The prior art relied upon by the Examiner does not disclose or render obvious the subject matter of independent claim 1. Hellaker discloses a communication system for communication between a central station and a remote mobile object. The remote object uses a cellular phone module and a satellite communication module to communicate with the central station. The remote object communicates in two modes: a private subscription for private usage or manual requests for assistance; and a service subscription for connection to the customer service center to obtain services from the customer service center. The service subscription is given a first priority and the private subscription is given a minor priority. As such, whenever the service subscription is activated, the private subscription is interrupted until the service subscription is completed. The service subscription may be activated by a key press of an operator, an accident indicated by a sensor, or a theft alarm.

In the last Office Action, the Examiner combined the teachings of Hellaker with those of Kobayashi. Kobayashi discloses an apparatus and method for adapting a noise cancellation ratio to different types of wireless connections. A determination is made whether a wireless connection from a mobile platform to a server is a phone call or a telematics call. A filter is selected based on the wireless connection determination.

Neither Hellaker nor Kobayashi teach or suggest all of the elements of claim 1. Claim 1 has been amended to clarify that the monitored parameters are time related parameters. The cited references in Hellaker and Kobayashi do not disclose monitoring time related parameters for personal communications. Hellaker discloses obtaining the actual position of the remote object using GPS, but does not disclose monitoring time related parameters of personal communications. Kobayashi discloses determining whether a call is "hands-free" or in voice recognition mode in order to determine appropriate filtering. But Kobayashi does not disclose monitoring for time related parameters.

Likewise, neither Hellaker nor Kobayashi discloses *scheduling a telematics unit communication* between the telematics unit and the remote facility *based on the monitored (time-related) parameters* as recited in claim 1. As stated by the Examiner, "Hellaker does not explicitly teach about scheduling a telematics unit communication based on the monitored parameters and communication requirement and, thereafter, executing the scheduled communication."¹ The Examiner cited Kobayashi as teaching scheduling a telematics unit communication based on the monitored parameters. But the cited reference in Kobayashi does not teach this. Rather, paragraphs 0007-0009 merely discuss determining the call type and applying the appropriate filter. Moreover, paragraph 0018 merely discloses that the processing may end if the user desires a subsequent wireless connection. The example provided teaches that the "user terminates a hands-free phone call by activating an IVR call."² Rather than teaching scheduling a telematics communication, the reference teaches that the user can interrupt and manually end one call by initiating another. The initiated call terminates the previous call. And

¹ Final Office Action, dated Sept. 18, 2006, p. 3, lns. 5-8,

² Kobayashi, US 2005/0014487, p. 2, par. 0018.

nowhere in Kobayashi does it teach or suggest using time related parameters. Therefore, the cited references do not teach all of the claimed limitations.

Furthermore, it is the Applicants' position that there is no motivation or suggestion for combining the teachings of Hellaker with those of Kobayashi in the manner suggested by the Examiner, as required by MPEP §2143.01. Hellaker teaches a remote object communicating in two modes: a private subscription for private usage and a service subscription for connection to a customer service center. The service subscription is given a first priority and interrupts the private subscription when activated. Kobayashi teaches monitoring two types of communication and applying an appropriate filter based on the determination. The Examiner has not shown a teaching or motivation as to why one would combine the filtering methods of Kobayashi with the subscription service of Hellaker to create a method for scheduling a telematics data transfer. Again, even if a proper motivation can be shown to combine the references, the resulting combination would still not include the features of claim 1 discussed above.

As for dependent claims 10 and 11, the applied prior art does not disclose *determining a time at which no personal communication is expected based on the monitored parameters, and scheduling the telematics unit communication at the determined time*. In the last Office Action, it was stated that Roach, (specifically, column 4 lines 45-62) discloses the steps of determining a time at which no personal communication is expected based on the monitored parameters and scheduling the telematics unit communication at the determined time. Review of those passages reveals no such disclosure. The cited Roach passage merely describes minimizing interference to normal operations of a broadcast of a control channel on a wireless system to cellular sets. Roach does not look at communication using a specific telematics unit, but rather looks at traffic within an entire service area of a wireless system. Moreover, rather than determining when *no* personal communication is expected, the controller in Roach sends out data updates when traffic on the wireless system is *relatively low*.³ In addition, the cited reference does not teach determining a time based on a *predicted time duration for*

³ Roach, Jr., US 6,044,263, col. 4, lns. 48-52.

the scheduled communication as required in claim 10. For these reasons, claims 10 and 11 are patentable over the prior art.

Claims 2-4 and 8-12 ultimately depend from claim 1. In view of the reasons articulated above, the Applicants respectfully submit that claims 1-4 and 8-12 are patentable over the prior art.

Claims 5-6 and 13-14

Like claim 1, independent claim 5 calls for *monitoring time related parameters for personal calls made through a telematics unit in a vehicle, and scheduling and executing the outbound call responsive to the parameters*. Therefore, for reasons similar to some of those discussed above in conjunction with claim 1, these steps are neither disclosed nor suggested by the prior art of record.

Claims 6 and 13-14 ultimately depend from claim 5. In view of the reasons articulated above, the Applicants respectfully submit that claims 5-6 and 13-14 are patentable over the prior art.

Claim 7

Independent claim 7 calls for a system that includes *a monitor for monitoring parameters for personal communications made through the telematics, and a communication scheduler for scheduling and executing a data transfer communication...at a time determined using the monitored parameters and selected so as to increase the likelihood that the data transfer will successfully complete without being interrupted by activation of the personal communication mode*. As discussed above in conjunction with claim 1, these elements involving monitoring parameters of personal calling and scheduling a data transfer communication are neither disclosed nor suggested by the prior art used in the rejection. Accordingly, Applicants respectfully submit that claim 7 is patentable over the prior art.

New Claims

Independent claim 15 has been added and discloses a method for scheduling telematics data transfer in which:

- (a) the timing of personal communications made through a telematics unit in a vehicle are monitored,
- (b) a telematic data transfer requirement is determined and is indicative of whether the telematic data transfer is to occur when the vehicle is running,
- (c) if the transfer requirement indicates that the telematics data transfer need not occur when the vehicle is running, then scheduling a call for the telematic data transfer from the telematics unit to a remote location such that the call is scheduled to occur at a time when the vehicle is not running; and
- (d) if the transfer requirement indicates that the telematic data transfer is to occur when the vehicle is running, then:
 - determining a call time using the monitored timing; and
 - scheduling a telematic data transfer call at the determined call time.

As discussed above, the prior art noted in the Office Action does not disclose monitoring timing of personal communications made through a telematics unit, nor does it disclose scheduling a call based on the monitored timing and on a requirement of whether or not a telematic data transfer is to occur when the vehicle is running or off. For these reasons, claim 15 is patentable over the prior art. Claims 16-19 ultimately depend from claim 15 and should be allowed therewith.

Conclusion

In view of the foregoing, Applicants respectfully submit that all claims are allowable over the prior art. Reconsideration is therefore requested. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

The Commissioner is hereby authorized to charge Deposit Account No. 07-0960 for any required fees or to credit that same deposit account with any overpayment associated with this communication.

Respectfully submitted,

REISING, ETHINGTON, BARNES, KISSELLE, P.C.

/James D. Stevens/

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JDS/GGB

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